

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-CR-220

Judge Gregory L. Frost

BENJAMIN W. RICHARDSON,

Defendant.

ORDER

This matter came on for a hearing this 26th day of October, 2011 upon Defendant's Motion to Revoke Detention Order and to Release Defendant on his own Recognizance (ECF No. 40) filed on October 12, 2011.

At the hearing, testimony was presented. Oral arguments were received concerning Magistrate Deavers' findings and Defendant's position. Counsel for the Government objected to Defendant's pretrial release. Before the hearing, the Court reviewed the transcript of the hearing held before Magistrate Judge Deavers on September 8, 2011 and her Opinion and Order (ECF No. 43) filed on October 21, 2011.

The Court finds the Motion to be not well taken and the Court **DENIES** the same.

Special Agent Britton testified at the hearing conducted by this Court on October 26, 2011. Most of his testimony related to post-detention phone calls made and letters written by Defendant from the Franklin County, Ohio jail. The Government argues that the communications are in the nature of witness intimidation or coercion. This Court recognizes that the communications are subject to more than one interpretation but the weight of the newly

presented evidence leads this Court to believe that Defendant is attempting to influence witnesses from his jail cell.

What is of more value and that which convinces the Court that Defendant should not be released from custody is the transcript of the hearing before Magistrate Judge Deavers. The Court finds, after a review of that proceeding, that clear and convincing evidence has been adduced that there is no condition or combination of conditions of release that will reasonably assure the appearance of Defendant and the safety of persons and the community.

This Court agrees with the well written decision of Magistrate Judge Deavers and adopts her findings. There is probable cause to believe Defendant has engaged in obstruction of justice and witness tampering. Evidence adduced at the initial detention hearing reveals communications with armed drug dealers who have connections with Mexican drug organizations. At least one material witness is concerned for his safety and one interpretation of evidence presented at the hearing before this Court is that Defendant is attempting to manipulate at least one other material witness. Although Defendant has significant family and community ties, Defendant is a former law enforcement officer who is capable of attempting to manipulate the system and obstruct justice and is attempting to do so, even now while he is incarcerated. The testimony also supports a finding of probable cause that Defendant abused his position of trust as a law enforcement officer to obtain a favorable outcome during a traffic stop of one of the witnesses in this matter.

The Court has considered all of the 18 U.S.C. § 3142(g) factors and finds by clear and convincing evidence that Defendant poses a risk of flight and that Defendant poses a danger to persons and the community.

For the foregoing reasons, the Court finds Defendant's Motion to be not well taken and the same is hereby **DENIED**.

IT IS SO ORDERED.

/s/ Gregory L. Frost
Gregory L. Frost
United States District Judge